



BAIL SLIP

The Appellant/Accused, Saravanan @ Saravanakumar, S/o.Muthusamy, was released on bail order dated 17/02/2014 made in MP(MD)No.1 of 2014 in Crl.A(MD)No.54 of 2014.

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 15.11.2019
PRONOUNCED ON : 14.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI
Crl.A(MD)No.54 of 2014

Saravanan @ Saravanakumar ... Appellant / Accused No.1

Vs.

The Deputy Superintendent of Police,
Thiruverumbur Sub Division,
Trichy District.
[Crime No.141 of 2012] ... Respondent/ Complainant

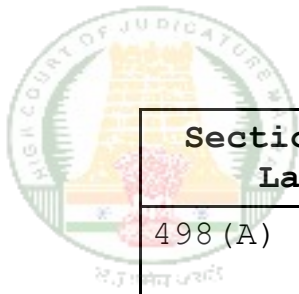
PRAYER: Appeal filed under Section 372 of the Code of Criminal Procedure, to call for the records pertaining to S.C.No.28 of 2013 on the file of the Sessions Judge, Mahila Court, Tiruchirappalli, set aside the conviction and sentence imposed on the appellant by his judgment dated 31.12.2013, acquit the appellant.

For Appellant : Mr.A.Arunprasad
For Respondent: Mrs.S.Bharathi,
Government Advocate (Crl Side)

JUDGMENT

This appeal is filed as against the judgment of the Sessions Court (Mahila Court), Tiruchirappalli in SC.No.28 of 2013, dated 31.12.2013.

2.The appellant and his mother were charged before the trial Court for the offence under Sections 498(A) and 304(B)IPC. The trial Court in conclusion of the trial has found the appellant / first accused guilty for the offence under Section 498(A) and 304(B) IPC convicted and sentenced as follows:



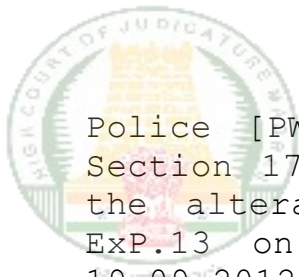
Section of Law	Sentence of imprisonment	Fine amount
498(A) I.P.C.	To undergo rigorous imprisonment for two years	Rs.2,000/- in default to undergo simple imprisonment for one month.
304(B) I.P.C.	To undergo rigorous imprisonment for ten years	Rs.10,000/- in default to undergo simple imprisonment for six months

3.The second accused / the mother of this appellant was acquitted from the charges levelled against her under Sections 498 (A) and 304(B)IPC.

4.The case of the prosecution is that the deceased Devi is the daughter of PW1. PW2 is the second wife of PW1. The deceased Devi and the appellant Saravanan fell in love with each other and that the deceased eloped with the appellant and married him in a temple on 22.04.2012. After the marriage, the couple was residing in the house of her sister one Tmt.Boopathi for sometime and thereafter, they arranged for a separate family at Annanagar, Thuvakudi.

5.On 18.06.2012, the deceased was taken to the Mahatma Gandhi Memorial Government Hospital at Tiruchirappalli by 108 Ambulance and was admitted at 4.45pm, through one Ravi that she sustained burn injuries in an accident at her residence at 3.00pm on 18.06.2012. The deceased took treatment at Mahatma Gandhi Memorial Government Hospital, Tiruchirappalli from 18.06.2012 to 23.06.2012 and died in the hospital on 23.06.2012 at 8.40am. In the meantime, PW1 father of the victim girl lodged a complaint before the Sub Inspector of Police, Thuvakudi Police Station [PW12] on 18.06.2012 and the same was recorded by PW12 and after the death of the victim girl on 23.06.2012, the complaint [ExP1] was recorded in Crime No.141 of 2012 [ExP10] on 23.06.2012 at about 11.00am under Section 174 CrPC.

6.Since the victim girl died within two months from the date of marriage, a copy of the FIR registered in Crime No.141 of 2012 [ExP.10] was forwarded to the Revenue Divisional Officer concerned [PW10] and he received the same at about 7.00pm and went to the Mahatma Gandhi Memorial Government Hospital, Tiruchirappalli and conducted inquest in the presence of PW12 and panchayat members and prepared an inquest report. He submitted his inquest report in ExP.6, based on the inquest report, the investigation was handed over to the Deputy Superintendent of



Police [PW13] and he altered the First Information Report from Section 174 CrPC to Sections 498(A) and 304(B) IPC and submitted the alteration report to the concerned Judicial Magistrate in ExP.13 on 18.07.2012. Thereafter, he arrested the accused on 19.09.2012 at about 12 noon near Anna Arch at Thuvakudi bus stop and remanded him for judicial custody. He also examined the Doctor and other witnesses and filed a final report as against the appellant and his mother 04.10.2012.

7.The learned Judicial Magistrate No.VI, Tiruchirappalli took the final report in PRC No.4 of 2013 and committed the same to the Court of Sessions on 05.02.2013 and the same was taken up for hearing by the Mahila Court, Tiruchirappalli. During the trial 13 witnesses were examined on the side of the prosecution and 13 exhibits were marked and no material object was produced on the side of the prosecution.

8.The available prosecution evidence are as follows:

8.1.PW1 father of the deceased lodged the complaint on 18.06.2012 and he has spoken about the marriage and the harassment made to his daughter at the hands of the appellant / accused.

8.2.PW2 is the second wife of PW1 and she has spoken about the love affair between the appellant and the deceased, the marriage between them and the harassment made to the victim girl at the hands of the appellant / accused.

8.3.PW3 is the neighbour, who arranged 108 ambulance on 18.06.2012 and sent the victim to the hospital and he also stated that during the enquiry by the Police he has informed that the accident has taken place on account of bursting of stove and before RDO, he stated that PW1 has told that the accused demanded a vehicle and money from them.

8.4.PW4 is the co-brother of PW1 and according to him, the married couple lived with him for sometime, he only arranged a separate family and prior to the occurrence, the accused had demanded motorcycle from PW1.

8.5.PW5 was examined for the purpose of observation mahazar and rough sketch prepared at the place of occurrence.

8.6.PW6 was examined for recovery of marriage certificate and school mark list of the deceased from PW1.

8.7.PW7 is also a neighbour of the accused and the deceased and according to him, he along with one Tmt. Boopathi took the deceased to hospital on 18.06.2012 and also gave a statement



before Revenue Divisional Officer and he was also informed that the accused demanded a motorcycle from PW1.

8.8.PW8 is the brother of PW1 and according to him, the deceased informed that since the accused demanded motorcycle and money, she poured kerosene and committed suicide.

8.9.PW9 is the Doctor, who conducted autopsy of the deceased on 24.06.2012 at 11.20 am and also issued postmortem report[ExP.4] and noted the following injuries.

"Superficial infected burns wound present on the face front side, back of neck, front, back of trunk in a patchy manner, whole of both upper limb front and back of both thigh, peeling and colonisation of which present. Base of burnt area is reddish floor is covered with greenish yellow colour smelling pus singeing of hair present. 2) Intraneous cut down on the right leg near the ankle."

She gave her final opinion that the deceased appears to have died of burn wounds and its complications.

8.10.PW10 is the Revenue Divisional Officer, who conducted inquest in this case and issued ExP6 and ExP7.

8.11.PW11 is the Doctor, who admitted the victim on the date of occurrence at Mahatma Gandhi Memorial Government Hospital, Trichy.

8.12.PW12 is the Sub Inspector of Police, who registered the case and PW13 is the Investigating Officer in this case.

9.The incriminating materials from the prosecution side were put to the accused under Section 313 CrPC and the accused denied the same.

10.The accused examined one S.Thirugnana Sambandam, Record Clerk at Mahatma Gandhi Memorial Government Hospital at Tiruchirappalli and through him, the case sheet for providing treatment to the accused at Government Hospital, Tiruchirappalli was marked as ExD.2 and the statement of PW1 before the Revenue Divisional Officer is marked as ExD.1.

11.Heard Mr.Arun Prasad, learned Counsel appearing for the appellant and Mrs.S.Bharathi, learned Government Advocate (Crl Side) appearing for the State.

12.The learned Counsel for the appellant submitted that the deceased was admitted in the hospital on 18.06.2012 at 4.45 pm and



in the accident register entry itself is mentioned that it is a case of accident. The deceased was in the Government Hospital at Tiruchirappalli from 18.06.2012 to 23.06.2012 and she died only after five days and though the complaint said to have lodged on 18.06.2012, no steps have been taken for recording the dying declaration of the victim in this case. But, according to PW8, who is the brother of PW1, the statement was recorded by the Police on 18.06.2012 itself, but the same was not placed before the Court. At the time of admission in the hospital, in the accident register [Exp9] itself it is specifically mentioned that the victim was conscious and she has also stated that it is a case of fire accident. But the trial Court has not considered the same. The learned Counsel for the appellant has also pointed out that the marriage between the accused and the victim was a love marriage and they have married in a temple against the wish of their parents and resided sometimes in the house of the sister of victim girl and thereafter, they arranged a separate family at the place of occurrence. In the course of accident the accused had also sustained 30% of burn injuries and the same was purposely suppressed by the prosecution.

13. Per contra, the learned Government Advocate (Crl Side) would submit that the case of the prosecution was established through the evidence of PW1, PW2, PW3, PW4 and PW8 and the evidence are cogent and all the witnesses have spoken about the demand made by the accused for a motorcycle and money, pursuant to the marriage and on account of which, the victim committed suicide. The Revenue Divisional Officer [PW10], who enquired the matter has submitted a report to the effect that there was a demand of dowry and pursuant to the same, the deceased had committed suicide. The learned Government Advocate further submits that the deceased died within two months from the date of her marriage and also pursuant to the demand of dowry and therefore, there is no reason to interfere with the findings of the trial Court.

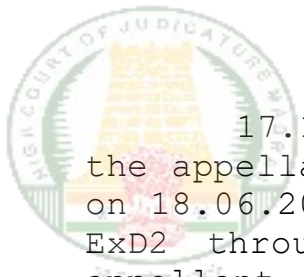
14. This Court paid its anxious consideration to the submissions made on either side and also perused the materials place on record.

15. The victim in this case married the accused, against the wish of her parents, on 27.04.2012 in Arulmighu Muthumariamman Thirukovil at Thanjore Road, Thuvakudimalai and the marriage certificate was issued by the temple authorities is marked as Exp3. Within two months therefrom the victim girl was admitted in the hospital with burn injuries on 18.06.2012 and she died in the hospital on 23.06.2012. PW1 is the father of the deceased and PW2 is the second wife of PW1. Even according to PW2, the victim girl eloped with the accused and married him. In the statement before



the Revenue Divisional Officer [PW10], PW2 has stated that after the marriage, the victim and the accused have lived together for sometimes in the custody of the sister of the first wife Valliammal and thereafter separate family was arranged for them at the place of occurrence. On 18.06.2012, the deceased was taken to the Government Hospital at Tiruchirappalli and admitted there at 4.45pm by a relative of the deceased, namely, one Ravi. The Doctor [PW11], admitted the deceased on 18.06.2012 and recorded accident register [ExpP9] and as per ExpP9, it is an accidental hurt at her residence at about 4.15 hours on 18.06.2012 and the patient was conscious at the time of admission. It is the case of the prosecution that the deceased sustained 40% of burn injuries on account of that accident. The deceased had taken treatment in the Government Hospital at Tiruchirappalli from 18.06.2012 to 23.06.2012 and died only on 23.06.2012. On 18.06.2012 itself a statement was recorded by the Sub Inspector of Police [PW12] from the deceased and he has also recorded a statement from PW1. But even then no case was registered, according to him, the same was registered only in the general diary. Only after the demise of the victim on 23.06.2012, a case was registered in Crime No.141 of 2012 under Section 174 CrPC as an accidental death.

16. Since the victim died within seven years from the date of marriage, the inquest was conducted by the RDO. During his enquiry on 24.06.2012, PW1 and PW2 have stated that there was a demand for motorcycle by the accused and therefore, on frustration the deceased had poured kerosene and the accused had also instigated her to die and therefore, she poured more kerosene and set ablaze. Though PW10 RDO stated to have examined the statements from the Panchayatars, the statements of the Panchayatars are not found in his report [ExpP7], wherein it is arrived at a conclusion based on the statement recorded from PW1 / the father of the victim and PW2 / second wife of PW1 and concluded the report that the death was due to certain dowry demand. Based on the report of RDO, the case was also altered from Section 174 CrPC to Sections 498(A) and 304(B) IPC on 18.07.2012. Thereafter, the Deputy Superintendent of Police has arrested the accused on 19.07.2012 and filed a final report as against this appellant and his mother. When the alteration report [ExpP13] was made on 18.07.2012, alteration report reached the concerned Judicial Magistrate Court only on 03.09.2012. The victim is said to have been admitted in the Government Hospital by one Ravi, but the said Ravi was not examined by the investigating agency in this case. Further PW4 and PW7 have been examined, as if they have taken the deceased to the hospital. PW3 neighbour of the deceased has stated he only arranged 108 ambulance and sent the deceased to the hospital. Similarly, PW7 has also stated that he only arranged 108 ambulance, took the deceased to the Government Hospital.



17.It is stated that along with the deceased, the appellant was also admitted in the hospital with burn injuries on 18.06.2012. As per the medical records of the accused marked as ExD2 through the Record Clerk of the Government Hospital the appellant / accused was admitted in the hospital on 18.06.2012 at 4.50 pm with burn injuries. The accident register of the appellant filed along with ExD2 would show that the said appellant was also admitted in the Hospital through said Ravi, who is a relative to the accused and he has not been examined in this case.

18.The accused had taken treatment in the hospital with 30% of injuries on 18.06.2012 and on 20.06.2012 and in the course of treatment, the statement of undertaking was also obtained from the brother of the accused one Shankar that the condition of the accused was serious. Though the accused had sustained 30% of burn injuries and was also admitted in the hospital along with deceased on 18.06.2012 and had also taken treatment from 18.06.2012 to 20.06.2012, the prosecution has deliberately suppressed the injury sustained by the accused in this case. None of the prosecution witnesses has spoken about the injury sustained by the accused during the course of incident. The investigating agency has failed to collect the treatment details provided to the accused and failed to produce the same before the Court and this raises serious doubt about the manner in which the investigation has been conducted in this case.

19.At the time of admission in the hospital, it was mentioned as it is a case of accident. The statement was also said to have recorded by the Police, even in the statement before the Police, it was mentioned as an accident. The deceased was conscious at the time of admission in the hospital. She died only after five days. Even on those five days, as rightly pointed out by the learned Counsel for the appellant, no steps have been taken by the investigating agency to record the dying declaration. The First Information Report was registered only on 23.06.2012, after the death of the victim. Even on 23.06.2012, the case was registered only under Section 174 CrPC and the case was altered into under Sections 498(A) and 304(B) IPC, only by way of alteration report dated 18.07.2012. This alteration report Exp.13 reached the Court only on 03.09.2012. The Revenue Divisional Officer [PW10] has examined PW1 and PW2 and arrived at a conclusion that there was a demand for motorcycle from the accused. Apart from the evidence of PW1 and PW2, there was no other witness examined at that point of time to substantiate that there was a demand for motorcycle.

20.Though the Revenue Divisional Officer arrived at a conclusion that there was a demand of dowry, based on the evidence of PW1 and PW2, the statement of PW1 was not annexed along with



report Ex.P7. However, the same was marked as ExD1 through the accused. The statement of PW1 before the RDO would disclose that he simply stated that he explained the statement to his second wife [PW2] made before the RDO. PW2 before RDO stated that the deceased has stated to her that on the date of occurrence the accused instigated the victim to die and therefore, she poured kerosene and committed suicide, whereas during the course of investigation, she has stated that the accused has poured kerosene and killed her. When a specific question was also put to her that there are three different versions from the prosecution side that the occurrence is (i)an accident (ii) instigation by the accused and (iii) the accused poured kerosene and killed, which is the correct one, PW2 stated that the statement made by her before RDO that the accused has instigated the victim to commit suicide is false and the accused has poured kerosene and killed the deceased is the right one and therefore, this type of evidence cannot be relied upon to convict the accused.

21.PW1 though stated some evidence before the Court, has not stated anything except accepting the second wife's statement made before RDO.

22.In the light of the above, this Court is of the view that the prosecution has failed to prove its case beyond reasonable doubt and therefore, this appeal is allowed and the conviction and sentence imposed on by appellant by the Sessions Judge, Mahila Court, Tiruchirappalli dated 31.12.2013 is set aside and the appellant is acquitted from the charges levelled against him. The bail bonds if any shall stand cancelled and the fine amount if any paid shall be refunded to the appellant.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1)The Sessions Judge,
Mahila Court,
Tiruchirappalli,



- 2) The Judicial Magistrate No.VI,
Tiruchirappalli.
- 3) Do Through,
The Principal District Judge, Tiruchirappalli.
- 4) The Superintendent, Central Prison,
Tiruchirappalli.
- 5) The Deputy Superintendent of Police,
Thiruverumbur Sub Division,
Trichy District.
- 6) The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 7) The Section Officer (Records),
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

Crl.A(MD)No.54 of 2014
14.02.2020

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